

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPLICATION (APL) NO. 513 OF 2019**

(Shri Ramkumar s/o Shankarraoji Motghare vs. The State of Maharashtra thr. PSO, PS Chandrapur)

---

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

Shri R.R. Gour, Advocate for the applicant.  
Shri S.D. Sirpurkar, APP for the non-applicant.

.....

**CORAM : P.N. DESHMUKH &  
PUSHPA V. GANEDIWALA, JJ.**

**DATE OF RESERVE : JULY 05, 2019.**

**DATE OF PRONOUNCEMENT : JULY 19, 2019**

In this application, the applicant is seeking quashing of First Information Report No. 245 of 2019 registered at Police Station, Chandrapur, for the offence punishable under Section 65(e) of the Bombay Prohibition Act read with Section 188 of the Indian Penal Code.

Heard the learned counsel for the respective parties.

It is the case of the prosecution that near the house of Sachin Waman Kumre situated on the road from Panchsheel Putala to Ballarsha, Police while patrolling on 09.03.2019, as per secret information, found one person by name Gaurav Liladhar Jamutkar, unloading liquor from his motor

vehicle. The police seized 320 bottles of Macdowel No. 1 foreign liquor each containing 180 ML liquor and registered aforesaid crime. During investigation, police came to know that the seized contraband was purchased from the shop of the present applicant and, therefore, he came to be added as co-accused in the aforesaid crime.

It is the case of the applicant that he is a license holder and owner of “President Wine Shop” situated at Killa Road, Mahal, Nagpur, since 1986-87, bearing License No. 74/1986-87, which is renewed up to the year 2018-19. He has been falsely involved in this case on the say of the co-accused.

The learned APP in his affidavit-in-reply on behalf of the State objected the application on the ground that the investigation is in progress.

We have considered the submissions on behalf of both the parties, perused the records and the case diary.

At the outset, undisputedly the present applicant is the license holder for the sale and purchase of liquor. In the entire police case diary, except the statement of the co-accused about the purchase of the aforesaid contraband liquor from the shop of the present applicant, there is no other incriminating material against the present applicant.

The FIR is lodged on 09.03.2019. From

the case diary, the investigation appears to be on the verge of completion. Section 188 of IPC could not be attracted in this case for want of complaint in writing by the public servant to the Court of Magistrate as per Section 195 of the Code of Criminal Procedure. As far as Section 65(e) of the Maharashtra Prohibition Act is concerned, admittedly the present applicant is the license holder to sell the liquor in the city of Nagpur. There is nothing in the case diary against the present applicant except a bare statement of the co-accused. The affidavit in reply also does not show any criminal antecedents against the applicant.

In view of the specific facts situation in this case and the nature of allegations, we are of the opinion that it would be abuse of process of law to proceed against the applicant in this case and, therefore, we are inclined to quash the aforesaid FIR against him and the same is accordingly quashed and set aside.

Criminal Application is disposed of accordingly.

**JUDGE**

**JUDGE**

\*GS.